STATUTORY INSTRUMENTS

2016 No. 630

OVERSEAS TERRITORIES

The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2016

Made - - - -	*8th June 2016*
Laid before Parliament	*9th June 2016*
Coming into force - -	*10th June 2016*

At the Court at Buckingham Palace, the 8th day of June 2016

Present,

The Queen's Most Excellent Majesty in Council

Under article 41 of the Charter of the United Nations, the Security Council of the United Nations has, by resolution adopted on 2nd March 2016(**1**), called upon Her Majesty's Government in the United Kingdom to apply certain measures to give effect to decisions of the Council in relation to the Democratic People's Republic of Korea:

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(**2**), section 112 of the Saint Helena Act 1833(**3**), the British Settlements Acts 1887 and 1945(**4**), and all of the other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2016 and comes into force on 10th June 2016.

(2) In this Order, "the principal Order" means the Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2012(**5**).

(3) This Order extends to the territories listed in Schedule 1 to the principal Order.

(**1**) S/RES/2270 (2016).
(**2**) 1946 c.45.
(**3**) 1833 c.85.
(**4**) 1887 c.54 and 1945 c.7.
(**5**) S.I. 2012/3066, amended by S.I. 2013/1718.

Amendment of the principal Order

2. The principal Order is amended in accordance with articles 3 to 16.

3. In article 2—

(a) for paragraphs (2) to (4) substitute—

"(2) Article 17 applies to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus, the Falkland Islands, South Georgia and the South Sandwich Islands, and St Helena, Ascension and Tristan da Cunha as set out in Schedule 3."; and

(b) re-number paragraph (5) as paragraph (3).

4. In article 3(1)—

(a) in the appropriate places, insert—

""aviation fuel" means items listed in Annex Ie to the Council Regulation;",

""coal, iron and iron ore" means items listed in Annex Id to the Council Regulation;",

""gold and ores" means items listed in Annex Ic to the Council Regulation;", and

""relevant person"—

(a) in relation to a ship, aircraft or vehicle falling within article 7(7)(a) or (b) means—

(i) the owner, charterer or master of the ship,

(ii) the owner, charterer, operator or commander of the aircraft, or

(iii) the owner, driver or operator of the vehicle;

(b) in relation to a ship or aircraft falling within article 7(7)(c) means—

(i) the charterer of the ship or aircraft, or

(ii) the master of the ship, or operator of the aircraft;";

(b) for the entry relating to "designated person", substitute—

""designated person" means any person listed in Annex IV, V or Va to the Council Regulation and any person subject to a direction made by the Treasury under regulation 7A of the Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2013(**6**);";

(c) for the entry relating to "economic resources", substitute—

""economic resources" means assets of every kind, whether tangible or intangible, movable or immovable, actual or potential which are not funds but can be used to obtain funds, goods or services, including vessels, such as maritime vessels;";

(d) in the entry relating to "insurance", omit "natural or legal"; and

(e) omit the entry relating to "person".

5. For article 7 substitute—

"**Offences related to the movement of restricted goods, luxury goods, aviation fuel, coal, iron and iron ore, and gold and ores**

7.—(1) It is an offence for a person to knowingly sell, supply, transfer or export (directly or indirectly) restricted goods—

(**6**) S.I. 2013/1877. Regulation 7A was inserted by S.I. 2016/578.

(a) to any person in North Korea; or

(b) for use in North Korea.

(2) It is an offence for a person to knowingly sell, supply or transfer or export (directly or indirectly) luxury goods or aviation fuel—

(a) to any person in North Korea; or

(b) for use in North Korea.

(3) It is an offence for a person to knowingly obtain restricted goods, coal, iron and iron ore, or gold and ores from North Korea, regardless of whether the goods originated in North Korea.

(4) It is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within paragraph (7) for the carriage of restricted goods, coal, iron and iron ore, gold and ores, luxury goods or aviation fuel if the carriage is, or forms part of, carriage from any place outside North Korea to any destination in North Korea.

(5) It is an offence for a relevant person to knowingly use a ship, aircraft or vehicle falling within paragraph (7) for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place in North Korea to any destination outside North Korea.

(6) Paragraphs (2) and (4) do not apply in relation to the sale or supply of aviation fuel to civilian passenger aircraft outside North Korea exclusively for consumption during its flight to North Korea and its return to the airport of origin.

(7) The following fall within this paragraph—

(a) a ship, aircraft or vehicle within the Territory;

(b) a ship or aircraft registered in the Territory; or

(c) any other ship or aircraft that is for the time being chartered to a person mentioned in article 2(1)(a) or (b).

(8) Paragraphs (4) and (5) are without prejudice to any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

(9) Schedule 2 (which contains provision about customs powers and investigations in relation to offences under this article and article 7A) has effect.

(10) This article is subject to articles 11 and 12.

Providing, obtaining or carrying goods destined for North Korea's armed forces

7A.—(1) It is an offence for a person ("P") to knowingly sell, supply, transfer or export (directly or indirectly) to North Korea goods, except food or medicine, which P knows or has reasonable cause to suspect—

(a) are destined directly or indirectly for North Korea's armed forces; or

(b) could support or enhance the operational capabilities of the armed forces of a State other than North Korea.

(2) It is an offence for a person ("P") to knowingly obtain goods from North Korea, except food or medicine, which P knows or has reasonable cause to suspect—

(a) are destined directly or indirectly for North Korea's armed forces; or

(b) could support or enhance the operational capabilities of the armed forces of a State other than North Korea.

(3) It is an offence for a relevant person ("P") to knowingly use a ship, aircraft or vehicle falling within article 7(7) for the carriage of goods, except food or medicine, if—

(a) the carriage is, or forms part of, carriage—

(i) from any place outside North Korea to any destination in North Korea, or

(ii) from any place in North Korea to any destination outside North Korea; and

(b) P knows or has reasonable cause to suspect that—

(i) the goods are destined directly or indirectly for North Korea's armed forces, or

(ii) the goods could support or enhance the operational capabilities of the armed forces of a State other than North Korea.

(4) Paragraph (3) is without prejudice to any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

(5) This article is subject to articles 11 and 12.".

6. In article 10A—

(a) in paragraphs (1) to (3), omit the words ", entity or body" wherever they appear;

(b) in paragraph (4)—

(i) in the chapeau, omit the words ", entities or bodies",

(ii) in sub-paragraph (d), omit the words "or entity",

(iii) in sub-paragraph (e), omit the words ", entity or body" and "legal".

7. In article 10B, omit the words ", entity or body".

8. For articles 10C to 10F, substitute—

"**North Korean credit and financial institutions: branches, subsidiaries, and representative offices**

10C.—(1) A credit or financial institution ("P") commits an offence if P—

(a) opens a new bank account with;

(b) establishes a new correspondent banking relationship with;

(c) establishes a new joint venture with; or

(d) takes an ownership interest in,

a person who P knows or has reasonable cause to suspect falls within article 10A(4).

(2) A credit or financial institution ("P") commits an offence if P—

(a) opens a new representative office in North Korea; or

(b) establishes a new branch or subsidiary in North Korea.

Acquisition or extension of ownership interest

10D. A credit or financial institution ("P") commits an offence if P allows a person falling within article 10A(4) to acquire or extend a participation, or acquire any other ownership interest, in P.

Severance of existing financial relationships

10E.—(1) A credit or financial institution ("P") commits an offence if, by 24th June 2016, P fails to—

(a) terminate any joint venture with;

(b) relinquish any ownership interest in; or

(c) terminate any correspondent banking relationship with,

a person who P knows or has reasonable cause to suspect falls within article 10(A)(4).

(2) The Governor may direct that a credit or financial institution must—

(a) close any bank account with a person falling within article 10(A)(4); or

(b) close any branch, subsidiary, or representative office in North Korea.

(3) The Governor may make a direction under paragraph (2) only if the Governor is satisfied that any such account, branch, subsidiary, or representative office could contribute to—

(a) the nuclear-related, other weapons of mass destructions-related, or ballistic missile-related programmes of North Korea; or

(b) any activities prohibited under this Order.

(4) A credit or financial institution must inform the Governor as soon as practicable if it suspects that any account, branch, subsidiary or representative office described in paragraph (2)(a) or (b) might contribute to any of the activities mentioned in paragraph (3).

(5) It is an offence for a credit or financial institution to knowingly fail to comply with paragraph (4).

(6) Any direction made under paragraph (2) must be—

(a) published in any form the Governor considers appropriate, including by means of a website;

(b) sent by the Governor to one or more credit or financial institutions affected by the direction; or

(c) sent by the Governor to one or more other persons affected by the direction.

(7) A credit or financial institution ("P") commits an offence if P knowingly fails to comply with any direction of the Governor made under paragraph (2).

(8) Anything done by a credit or financial institution in accordance with this article is not to be treated as a breach of any restriction imposed by statute or otherwise.

Business directly or indirectly with designated persons

10F. A credit or financial institution ("P") commits an offence if P knowingly participates in any business arrangements, including joint ventures, with—

(a) a designated person; or

(b) any other person acting on behalf or at the direction of such a person.

Financial support for trade

10G. A credit or financial institution ("P") commits an offence if P knowingly provides financial support for trade which may contribute to—

(a) the nuclear-related, other weapons of mass destructions-related, or ballistic missile-related programmes of North Korea; or

(b) any activities prohibited under this Order.

Offences related to the movement of North Korean banknotes or coins

10H. A person ("P") commits an offence if P knowingly sells, supplies, transfers or exports (directly or indirectly) new North Korea denominated banknotes or coinage printed or minted in the Territory to the Central Bank of North Korea.